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September 18, 2018

BY ECF

The Honorable Loretta A. Preska
United States District Judge
Daniel Patrick Moynihan
United States Courthouse
500 Pearl Street
New York, NY 10007-1312

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Re: *Gibb v. Tapestry, Inc.*,
No. 18 Civ. 06888 (LAP)

Dear Judge Preska:

We submit this letter on behalf of Defendant Tapestry, Inc., in response to Plaintiff's counsel's letter dated today, regarding Defendant's Motion to Dismiss Plaintiff's Complaint ("Motion") in the above-referenced matter. Plaintiff's statement that his newly filed EEOC charge and the EEOC's dismissal of that charge renders Defendant's Motion "moot" is based on a misunderstanding of the arguments in Defendant's Motion. For the reasons stated in the Motion, Plaintiff's complaint should be dismissed, and neither the new EEOC charge nor the dismissal of that charge cure the defects with Plaintiff's purported federal claims.

As to any additional claims, Defendant never agreed that any claims previously asserted in New York State Court could be "removed" to federal court. Plaintiff had previously filed an action against Defendant in state court. Plaintiff subsequently filed this action and moved to discontinue their state court action. Defendant filed a non-opposition to Plaintiff's motion to discontinue without "agree[ing]" that the claims asserted therein could be brought in federal court. As we have not seen any proposed amended complaint, Defendant cannot presently determine whether any such amendments affect Defendant's Motion.

We do not believe that a Court conference is necessary, but will participate in a conference if the Court believes one would be helpful.

Please be advised that we will be out of the office in observance of the holidays on September 19, 2018 and are not available on Thursday, September 20, 2018 until 4:00 p.m.

Respectfully submitted,

/s/ Elise M. Bloom
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